



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Ns. 20-105; FCC 20-120; FRS 17210]

Assessment and Collection of Regulatory Fees for Fiscal Year 2020

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on several regulatory fee issues impacting international services.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**; and reply comments **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments identified by MD Docket No. 20-105, by any of the following methods below. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418-0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (*Further Notice*), FCC 20-120, MD Docket No. 20-105, adopted and released on August 31, 2020. The full text of this document is available for public inspection on the Commission's website at <https://docs.fcc.gov/public/attachments/FCC-20-120A1.pdf>. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need

documents in these formats may contact the FCC by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

I. PROCEDURAL MATTERS

1. *Ex Parte Information.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the Commission’s rules. In proceedings governed by § 1.49(f) of the Commission’s rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

2. *Initial Regulatory Flexibility Analysis.* An initial regulatory flexibility analysis (IRFA) is contained in this summary. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

3. *Initial Paperwork Reduction Act of 1995 Analysis.* This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

II. NOTICE OF PROPOSED RULEMAKING

4. In this Further Notice of Proposed Rulemaking, we invite comment on four proposals from commenters in this proceeding to differentiate regulatory fees for different types of NGSO systems in future years. *First*, Kineis notes the Commission has already concluded that a separate fee for small satellites would be appropriate; the NGSO systems vary dramatically in size, number of space stations, spectrum required, and services offered; the proposed fee increase for NGSO systems is substantial; and the Commission has not addressed this issue in many years. Kineis therefore proposes a formula to determine NGSO regulatory fees: x (number of operating satellites) multiplied by y (total transmit bandwidth) = index value. Kineis suggests fee tiers based on groupings of index values and basing the difference in fees on the average index value for each tier. We seek comment on this proposal.

5. *Second*, Eutelsat contends that the fees assessed on NGSO systems should be separated into small and large NGSO systems, based on the number of satellites in the system. According to Eutelsat, large and complex NGSO systems require more staff time to oversee and receive greater benefits from the Commission. Smaller NGSO systems in more established bands, Eutelsat suggests,

represent a smaller burden on Commission staff because they have greater sharing capabilities and operate in less congested and less contested frequency bands. We seek comment on this proposal.

6. *Third*, Myriota proposes we divide NGSO systems into three categories: fixed-satellite service (FSS); mobile-satellite service (MSS); and remote sensing, Earth-exploration satellite service (EESS), and other NGSO systems. Myriota explains that the Commission has spent multiple years on the NGSO FSS processing round for more than ten applicants and some applicants seeking constellations of tens of thousands of satellites. Myriota contends that other types of NGSO systems, such as MSS or EESS systems, require fewer resources because they have fewer applicants and less complex issues, relative to the FSS systems. In addition, NGSO rulemakings from 2017-2019 primarily benefited NGSO FSS systems and the Commission has not updated the rules for MSS or remote sensing during that time period. Myriota argues that the Commission's rules for NGSO FSS systems generally reflect a level of complexity not present for other NGSO systems due to the extremely large constellations and complex sharing and coordination requirements. We seek comment on this proposal.

7. *Finally*, AWS suggests that we assess a nominal fee for NGSO systems with five or fewer U.S. licensed earth stations for TT&C and non-domestic data downlink purposes. AWS proposes that the regulatory fee would be assessed on a per earth station basis at the same rate as earth station licenses. We seek comment on this proposal.

8. The Commission considers the adoption of a new fee category or a change in fee categories only when it develops sufficient basis for making the change. Commenters should address whether the proposal are in accord with the requirements of section 9. Commenters should also address whether such proposals serve the goal of ensuring that our actions in assessing regulatory fees are fair, administrable, and sustainable.

9. It has not been the experience of Commission staff reviewing satellite applications that certain broad categories of NGSO systems require substantially more time to process than others under

the current rules. A smaller NGSO system in bands shared with other services may require greater staff efforts to approve than a larger NGSO system in bands without coordination difficulties. NGSO FSS systems, while occupying substantial staff time to review in the past few years, have also benefited from streamlining rulemakings that have eliminated some of the most cumbersome technical demonstrations, such as equivalent power-flux density showings. In contrast, systems operating in services that are allegedly easier to license, such as EESS, have involved complicated, multi-year coordination, phased deployments, multiple application amendments, and frequent grants in part, with the associated staff investment. Nonetheless, we recognize that the Commission has created the regulatory category for small satellites, in part, to charge different fees for certain systems. Accordingly, we invite comment on the proposals above regarding other categories of NGSO systems for FY 2021.

III. INITIAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking. Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *Further Notice*. The Commission will send a copy of the *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.

A. Need for, and Objectives of, the Proposed Rules

2. The *Further Notice* seeks comment on a regulatory fee issue raised by commenters for fiscal year (FY) 2021. In the *Further Notice*, the Commission seeks comment on four proposals to differentiate regulatory fees for different types of nongeostationary orbit satellite (NGSO) systems. The Commission seeks comment on a proposed formula to determine NGSO regulatory fees: x (number of operating satellites) multiplied by y (total transmit bandwidth) = index value. The Commission also seeks comment on separating large and small NGSO systems into different categories, based on the number of satellites in each system. In addition, the Commission seeks comment on a proposal to divide NGSO systems into categories: fixed-satellite service (FSS); mobile-satellite service (MSS); and remote sensing, Earth-exploration satellite service (EESS), and other NGSO systems. Finally, the Commission seeks comment on assessing a nominal fee for NGSO systems with five or fewer U.S. licensed earth stations for telemetry, tracking, and command (TT&C) and non-domestic data downlink purposes, on a per earth station basis at the same rate as earth station licenses. The Commission seeks comment on these four proposals for different regulatory fee categories of NGSO systems for FY 2021.

B. Legal Basis

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 159, and 303(r) of the Communications Act of 1934, as amended.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

5. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

6. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

7. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special

districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.” Governmental entities are, however, exempt from application fees.

8. *All Other Telecommunications.* “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$35 million or less. For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million. Thus, a majority of “All Other Telecommunications” firms potentially affected by the proposals in the *Further Notice* can be considered small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

9. This *Further Notice* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

10. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

11. The *Further Notice* seeks comment on four proposals for NGSO regulatory fee categories for FY 2021. The Commission will release a Notice of Proposed Rulemaking for all regulatory fees for FY 2021; the *Further Notice* will give parties an opportunity to file comments prior to the annual Notice of Proposed Rulemaking. If any of these proposals are adopted, it may reduce the regulatory fee burden on some satellite entities. In addition, the section 9(e)(2) annual regulatory fee exemption of \$1,000 will reduce burdens on small entities with annual regulatory fees that total \$1,000 or less.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

12. None.

IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to section 9(a), (b), (e), (f), and (g) of the Communications Act of 1934, as amended, 47 U.S.C. 159(a), (b), (e), (f), and (g), this Notice of Proposed Rulemaking IS HEREBY ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch

Secretary.

[FR Doc. 2020-24503 Filed: 11/9/2020 8:45 am; Publication Date: 11/10/2020]